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<b>PRE-APPEAL BRIEF REQUEST FOR REVIEW</b>		Docket Number (Optional) 4208-4044	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]		Application Number 10/042,344	Filed January 11, 2002
		First Named Inventor Jakke MAKELA, <i>et al.</i>	
on _____		Art Unit 2155	Examiner Asad Nawaz
Signature _____		Confirmation No. 7513	
_____	Type or printed name		

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).  
Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor. \_\_\_\_\_  
/Joseph C. Redmond, Jr./  
Signature

☐ assignee of record of the entire interest.  
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96) \_\_\_\_\_  
Joseph C. Redmond, Jr.  
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☒ attorney or agent of record.  
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Registration number if acting under 37 CFR 1.34 \_\_\_\_\_  
April 13, 2007  
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below\*.

☒ \*Total of 1 forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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**27123**

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PATENT

Docket No. 4208-4044

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant(s): MAKELA, *et al.*

Confirmation No.: 7513

Serial No.: 10/042,344

Group Art Unit: 2155

Filed: January 11, 2002

Examiner: Asad M. Nawaz

Title: METHOD, SYSTEM, APPARATUS & COMPUTER PRODUCT FOR PORTABLE  
NETWORKING OF MULTI-USER APPLICATIONS

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Mail Stop **AF**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Applicant filed an Appeal Notice, dated March 15, 2007 for the subject application and submits the attached Pre-Appeal Brief Request for Review pursuant to the USPTO OG Notices: February 7, 2006.

**I. Status of Claims:**

Claims 1-4, 6-13, 29-32 and 34-47 are pending in the application as follows:

- 1) Claims 1-13 have been objected to for minor informalities.
- 2) Claims 1-3, 6, 10-13, 29-31 and 38-47 have been rejected under 35 U.S.C. § 103(a) as being anticipated by USP 6,871,236 to Fishman, issued March 22, 2005, filed January 26, 2001. (hereafter "Fishman"), further in view of USPA PUB 2003/0005174) to D. Coffman, *et al.*, published January 2, 2003, filed June 29, 2001, (hereafter Coffman).
- 3) Claims 7-9 and 35-37 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Fishman and Coffman, *et al.*

4) Claims 4 and 32 have been rejected under 35 U.S.C. § 103 (a) as unpatentable over Fishman and Coffman in view of USPA PUB 2001/00 54087 to M. Flom, *et al.*, published December 20, 2001, filed April 25, 2001.

## **II. Review Request:**

Applicants request review of the final rejection of independent claims 1, 29, 42 and 43 based on USP 6,871,236 (Fishman) and USPA PUB 2003/0005174 (Coffman), alone or in combination, for failure to disclose each and every element of the claimed subject matter, as required by MPEP 2131, as follows:

A. Claims 1 and 43:

**(i) “a portable hand-held user device operating as a wireless server including a mass memory module to store and communicate multi-user application data to the plurality of wireless hand-held user terminals;”**

The Examiner contends Fishman discloses a Mobile Gateway 250 (Fig. 2) functionally equivalent to a portable server including a mass memory module described at Col. 7, lines 29-32, e.g. hard disk drive 32 (Fig. 1); magnetic disk drive 28 (Fig. 1) in the computer system 20 (Fig. 1) to store and communicate the same multi-user application data via a wireless link to the plurality of wireless handheld terminals, the Mobile Gateway describing the claimed subject matter of feature (i). Applicants disagree.

First, the Examiner mixes the computer system of Figure 1 with the mobile gateway of Figure 2 to describe the elements of the claimed feature. There is no mass memory in the mobile gateway equivalent to the mass memory described in applicants' specification at Paragraph 0034. The only memory in the mobile gateway is a cache which has very limited memory capacity, and is not equivalent to or suggestive of a mass memory.

Second, the Examiner has not identified, nor, has applicants found in Fishman any disclosure or suggestion that the hard disk drive or magnetic disk drive of the computer system 20 are included in the mobile gateway. Nor, should the computer hardware of Figure 1 be included in the mobile gateway, otherwise the gateway would not be mobile.

Third, applicants can find no disclosure or suggestion in Fishman. Nor, has the Examiner identified any disclosure or suggestion in Fishman that the mobile gateway is a hand held device operating as a wireless server.

Fourth, there is no disclosure or suggestion in Fishman that the mobile gateway communicates multi-user application data to the plurality of wireless handheld terminals. Fishman at Col. 8, lines 9-33 discloses the mobile gateway provides customized content to the users, where the content includes calendar data, financial data, contact data, etc., none of which are representative of multi-user applications, as described in applicants' specification at Paragraph 0032.

**(ii) "wherein a wireless protocol communicates only the same multi-user application data to the plurality of wireless hand-held user terminals via a wireless link."**

The Examiner acknowledges Fishman does not disclose communicating the same multi-user application data to the plurality of handheld terminals, but contends Coffman at Paragraph 0075 discloses a user or application developer can specify information that can be shared with other applications; information that should be shared only with specific applications thereby allowing a user to choose the proper security and sharing of information, the combination of Fishman modified by Coffman disclosing the claimed subject matter of feature (ii). Applicants disagree.

First, the claimed subject matter provides users of hand held terminals increased flexibility for receiving and utilizing multi-user data as described in applicants' specification at Paragraphs 0008, 0032; whereas, Coffman places restraint on user access to the same multi-user application data, as described in Coffman at Paragraph 0075.

Second, the claimed subject matter describes a standard protocol, e.g. Bluetooth to communicate the same multi-user application data, as described in applicants' specification at Paragraph 0025; whereas, Coffman at Paragraph 54 discloses special protocol to implement dialog management and arbitration in sharing of applications by users.

Third, substituting an application sharing process of Coffman in Fishman where application sharing does not exist and application transforms are needed to distribute the application, does not teach or suggest to a worker skilled in the art the flexible distribution of the same multi-user applications to a plurality of hand held user terminals.

**Summarizing, Fishman fails to disclose or suggest the subject matter of feature (i) by the absence of (a) a mass memory in a mobile gateway, (b) the mobile gateway operating as a hand held wireless server, and (c) the mobile gateway providing content not multi-user application. Moreover, Coffman does not supply the missing element in Fishman related to flexible distribution of the same multi-user application to a plurality of wireless**

**handheld terminals, via a wireless link. Coffman discloses controlled distribution of application according to the user or developer preferences.**

The rejection of claims 1 and 43 under 35 U.S.C. § 103 (a) does not find support in the cited art for the above summarized reasons. Withdrawal of the rejection and allowance of the claims should be granted.

B. Claims 29 and 42:

(i) **“storing multi-user application data in a mass memory of a portable hand-held user device operating as a wireless server;”**

The Examiner contends Fishman at col. 7, lines 29-31; col. 8, lines 9-10; col. 7, line 64 continuing to col. 8, line 11 and col. 9, line 26-27; col. 11, lines 32-36 describes storing multi-user application data in a mass memory of a portable hand-held user device operating as a wireless server; initiating wireless communication between the server and at least one hand-held user terminal; sending customized email to a plurality of wireless terminals; executing the sent multi-user data by the a wireless user terminal device, and describes the subject matter of claim 29. Applicants' disagree.

First, there is no mass memory in the mobile gateway to store multi-user application, as described in applicants' specification a Paragraph 0032, only a cache memory, a limited memory to store transforms.

(ii) **“transmitting only the same multi-user application data stored in said mass memory to the plurality of wireless hand-held user terminals using a wireless protocol; and”**

The cited art discloses the mobile gateway transmits data in different formats to the terminals according to transforms associated with the user terminals. In contrast, Applicants transmit the same data to each user terminal, via a standard interface, as described in applicants' specification at Paragraph 0033.

(iii) **“executing of said same multi-user application data by each said wireless hand-held user terminal device in the plurality of wireless hand-held user terminals transmitted by said portable wireless server.”**

Fishman at col. 10, lines 51-54 discloses “although phone 274, pager 276, PDA 278 and mobile gateway 279 may request the same data object, each may receive a transformed data object that differs from the transformed data object received by the others.” In contrast,

applicants specification at Paragraph 0027, discloses each user terminal receive data from the server via a standard interface and executes the same multi-user application data, and not different multi-user application data duet transforms.

**Summarizing, the cited art fails to disclose (1) a mass memory in a portable hand-held server terminal; (2) transmitting the same multi-user application data from the server terminal to each of a plurality of hand-held user terminals, and (3) the user hand-held terminals executing the same multi-user application data. The rejection of claims 29 and 42 under 35 U.S.C. § 103 (a) base on the cited art is without support in the cited art. Withdrawal of the rejection and allowance of the claims should be granted.**

**C. Fishman is not a proper reference for rejecting independent claims 1, 29, 42 and 43 based on the Interview Summary of February 2, 2006.**

**Agreement was reached in the Interview Summary of February 2, 2006 that Fishman would be over come by amending independent claims 1, 29, 42 and 43 to reflect “the same multi-user application data transferred to the plurality of portable terminals. “ Claims 1, 29, 42 and 43 were amended in the Request for Continued Examination, filed February 13, 2006. The rejection of claims 1, 29, 42 and 43 under 35 U.S.C. § 103 (a) is without support in the cited art. Withdrawal of the rejection and allowance of the claims should be granted.**

### **III. Conclusion:**

**Applicants have demonstrated in the above Paragraphs A, B and C there is no support in the cited art for the rejection of independent claims 1, 29, 42 and 43. The Examiner should be reversed; the claims allowed, and the application passed to issue.**

Respectfully submitted,  
MORGAN & FINNEGAN

Date: April 13, 2007

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